

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL JAMAL WILLIAMS,

Plaintiff,

v.

DECISION AND ORDER
16-CV-1042A

SCOTT PERRY, et al.,

Defendants.

The above-referenced case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B). On April 5, 2018, Magistrate Judge Schroeder filed a Report and Recommendation (Dkt. No. 23), recommending that Defendants' Motion to Dismiss (Dkt. No. 19) be granted in part and denied in part, as follows: 1) *Pro se* Plaintiff's claim that Defendants falsified a misbehavior report be dismissed, 2) Plaintiff's claims against the Defendants in their official capacities be dismissed, and 3) Plaintiff's excessive force claims against the Defendants in their individual capacities should proceed.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, Plaintiff's claim that Defendants falsified a misbehavior report is dismissed, Plaintiff's claims against the Defendants in their official capacities are dismissed, and Plaintiff's

excessive force claims against the Defendants in their individual capacities may proceed.

The case is referred back to Magistrate Judge Schroeder for further proceedings.

IT IS SO ORDERED.

Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: May 3, 2018